

II. Remarks and Conclusion

Applicants are confused by the requirements of the instant Office Communication. The Communication is not titled and has no cover page. From reading the contents, it appears to be a Notice of Non-compliant amendment. The Communication references a response to a Restriction Requirement of August 13, 2003 as the communication wherein the Applicants failed to comply with the amendment requirements of 37 CFR §1.121. Applicants have reviewed the file and fail to see where any amendment has been made to the Claims other than the preliminary amendment file with the case on January 30, 2001.

As a brief procedural history, this case was filed on January 30, 2001 with a preliminary amendment. The amendment complied with the rules in effect at that time. On April 10, 2002, a status request was filed. On August 12, 2003, the Patent Office issued a Restriction Requirement. On August 28, 2003, Applicants' attorney, William P. Ramey, III, me, responded to the Restriction Requirement requesting clarification, as the office had not issued the restriction requirement on the Claims amended on January 30, 2001. On May 4, 2004, the Office issued a revised Restriction Requirement. Applicants responded to the Revised Restriction Requirement on May 28, 2004, electing Group I, with traverse.


Now, in September of 2004, Applicants receive a Communication from the patent Office stating that Applicants' amendment of September 11, 2003 (the August 28, 2003 Response to the Restriction Requirement of August 12, 2003) improperly amended the Claims. However, as is very evident from the record, no amendment was made. Applicants respectfully request another correction to the record to indicate that all amendments were made according to the then applicable rules.

As well, Applicants hereby request an extension of time commensurate with the patent Offices mistakes. This application was filed on January 30, 2001. As of September of 2004, no action on the merits has occurred. The entire delay is not at the Applicants' fault. The entire delay is because of the Patent Office and an extension of time is appropriate.

Attorney Docket No.: I-98.404 US

In conclusion, Applicants reaffirm the Election of Group I and respectfully submit that the Claims are in a condition for allowance and request such action. Further, Applicants assert that all amendments have been proper and according to the applicable rules. Applicants will petition for the appropriate extension of time when necessary. Please call the undersigned attorney with any questions. Should the Examiner determine that the Application cannot be examined, Applicants respectfully request an interview with the Examiner and her Supervisor. Please charge deposit account 02-2334 for any required fees and to credit any credits.

Respectfully submitted,


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